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T-D

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/268,930 03/16/99 DOBLER L P03915US0

IM62/1005

EDMUND J. SEASE
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309

EXAMINER

CROSS, L

ART UNIT	PAPER NUMBER
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1743

2

DATE MAILED:

10/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/268,930

Applicant(s)

Dobler et al

Examiner

LaToya Cross

Group Art Unit

1743



☒ Responsive to communication(s) filed on Mar 16, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-13 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-13 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite with respect to the term "film-like". What exactly do Applicants intend by "film-like"?

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,201,548 to Tamaoku et al (hereinafter referred to as Tamaoku et al '548).

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Tamaoku et al '548 disclose an apparatus and method for detecting and determining volatile substances such as ammonia. The apparatus includes a gas permeable membrane (2) produced from polymers such as polypropylene. The gas of the volatile substance is separated through the membrane and contacts a film-like layer color developing carrier (3). The color developing carrier is impregnated with an indicator and results in a color change when in the presence of the volatile gas. The determination of the volatile substance is carried out through the comparison of the degree of color change with a standard (col. 1, lines 40-59). The polymeric films of the examples have a pore diameter ranging from 0.016 to about 3 microns. Tamaoku et al '548 disclose the use of pH indicating chromogenic agents such as bromocresol purple, bromphenol blue and bromocresol green (col. 2, lines 46-68). At col. 2, lines 20-25, Tamaoku et al '548 teach also the use of vaporizing alkaline agents such as sodium and potassium carbonate.

Tamaoku et al '548 differ from the instantly claimed invention in that it is not specifically taught that the alkaline agents adjust the pH to at least 10. However, the reference teaches that the alkaline agents are used as vaporizing agents and the detection sensitivity of the volatile substance is increased with the vaporizing agents. It would be obvious to the skilled artisan that in order for the alkaline agent to serve as a vaporizing agent and to produce gas, the vaporizing agent would have to increase the pH of the sample to a level sufficient to result in the formation of gas. A skilled artisan would also know that a sufficient pH level for formation of ammonia gas would be 10.

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Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be obvious, within the meaning of 35 U.S.C. 103 in view of the teachings of Tamaoku et al '548.

Allowable Subject Matter

5. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 12 is directed to the additional use of ethyl cellulose, a surfactant, and tertiary octyl phenol in the indicator pad which is not taught or suggested by the prior art of record.

Citation of Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is (703) 305-7360. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached at (703) 308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LIC

October 2, 2000

A handwritten signature in black ink, appearing to read "Randy Gulakowski".

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700